

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ASTELLAS INSTITUTE FOR
REGENERATIVE MEDICINE,

Plaintiff,

v.

IMSTEM BIOTECHNOLOGY, INC.,
XIAOFANG WANG, and REN-HE XU,

Defendants.

C.A. No. 1:17-cv-12239

**DEFENDANTS' ASSENTED-TO
MOTION TO CORRECT RECORD**

Pursuant to Fed. R. Civ. P. 52 and L.R. 7.1, Defendants ImStem Biotechnology, Inc. (“ImStem”), Xiaofang Wang, and Ren-He Xu (collectively, “Defendants”) move to correct their Post-Trial Proposed Findings of Fact and Conclusions of Law (ECF 244) (“DFOF”). In support of this motion, Defendants state as follows:

Upon reading Plaintiff Astellas’ Response to Defendants’ Proposed Findings of Fact and Conclusions of Law (ECF 245), Defendants discovered that they had inadvertently cited in their DFOF certain exhibits that were not admitted at trial: (i) emails TX-OF, TX-DS, TX-EW, TX-NB, TX-SI; and (ii) file wrappers TX-48 (‘321 patent) and TX-FG (‘956 patent).

Counsel for Defendants conferred with counsel for Astellas and the parties agreed that Defendants would file the attached redlined version of the DFOF (*see* Ex. A), reflecting a removal of the particular citations above. With respect to the file wrappers, replacement citations can be found in the following locations:

- In DFOF ¶ 93, citations to TX-48 ('321 file wrapper) and TX-FG ('956 file wrapper) have been replaced with citations to TX-1 ('321 patent) at 2 ("Related U.S. Application data") and TX-2 ('956 patent) at 2 ("Related U.S. Application data").
- In DFOF ¶ 93, note 19, the citation to TX-48 ('321 file wrapper) has been replaced with TX-1 ('321 patent) at 2 ("Related U.S. Application data") and TX-40 at AIRM00294150-299 ('321 PCT disclosed in '551 prosecution).
- In DFOF ¶ 130, the citation to TX-FG ('956 file wrapper) has been replaced with TX-2 ('956 patent) at 2 ("Related U.S. Application data").
- In DFOF ¶ 131, the citation to TX-48 ('321 file wrapper) has been replaced with TX-40 at AIRM00294150-299 ('321 PCT disclosed in '551 prosecution) and Tr. 8-149:24-25.

Astellas has not agreed to the relevance or accuracy of these citations but has assented to the relief sought herein.

Counsel for the Defendants regret the error and apologize to the Court and opposing counsel for any inconvenience their mistake may have caused.

CONCLUSION

WHEREFORE, for the reasons set forth above, the Defendants respectfully request that the Court accept the Defendants' revised Findings of Fact and Conclusions of Law (Ex. A) with notations as above.

Dated: December 16, 2020

IMSTEM BIOTECHNOLOGY, INC.;
DR. XIAOFANG WANG; and
DR. REN-HE XU

By their attorneys,

/s/ Timothy R. Shannon
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CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2020, I caused a true copy of the foregoing document to be served upon all counsel of record via the Court's CM/ECF electronic filing system.

/s/ Timothy R. Shannon

Timothy R. Shannon